



Office de la propriété
intellectuelle
du Canada

Un organisme
d'Industrie Canada
www.opic.gc.ca

Canadian
Intellectual Property
Office

An Agency of
Industry Canada
www.cipo.gc.ca

September 2, 2010

GOWLING LAFLEUR HENDERSON LLP

1 Place Ville Marie
37th Floor
MONTREAL Quebec
H3B 3P4

Application No. : **2,408,289**
Owner : SCIENTIFIC-ATLANTA, INC.
Title : **NAVIGATION MENU FOR ACCESS TO TELEVISION SERVICES**
Classification : H04N 5/445 (2006.01)
Your File No. : **L8000784CA**
Examiner : Reginald Linco

YOU ARE HEREBY NOTIFIED OF A REQUISITION BY THE EXAMINER IN ACCORDANCE WITH SUBSECTION 30(2) OF THE *PATENT RULES*. IN ORDER TO AVOID ABANDONMENT UNDER PARAGRAPH 73(1)(a) OF THE *PATENT ACT*, A WRITTEN REPLY MUST BE RECEIVED WITHIN 6 MONTHS AFTER THE ABOVE DATE.

This application has been examined taking into account applicant's correspondence received in this office on February 27, 2009.

The number of claims in this application is 15.

The examiner has identified the following defects in the application:

A search of the prior art has revealed the following:

Reference Applied: ☐

PCT Patent Application

D1: WO 00/02385 A1 Jan. 13, 2000

Lemmons et al.

☐ applied in the USPTO.

Anticipation & Obviousness

Claims 1, 8 and 12 do not comply with paragraph 28.2(1)(b) of the *Patent Act*. D1 disclosed the claimed subject matter before the claim date.

Claims 2 to 7, 9 to 11 and 13 to 15 do not comply with section 28.3 of the *Patent Act*. The subject matter of these claims would have been obvious on the claim date to a person skilled in

the art or science to which they pertain having regard to D1 in view of the common general knowledge in the art.

As to claims 1 and 8, D1 teaches a method for accessing services by a client device coupled to a server device (p. 8, ll. 8-17; FIG. 1) and a display, comprising the steps of:

- presenting to a user a first menu on the display (p. 17, l. 27 - p. 18, l. 8; FIG. 6a) containing a first plurality of selectable link representations corresponding to a first plurality of services (FIG. 4), the first menu configured to be presented to the user for repeated occurrences of a first recurring predetermined time period (p. 15, ll. 15-19, 25-30; FIGs. 5, 6a and 6b, item "57");
- presenting to the user a second menu (p. 18, l. 28 - p. 19, l. 14; FIG. 6b) on the display containing a second plurality of selectable link representations corresponding to a second plurality of services (p. 18, l. 28 - p. 19, l. 1; FIG. 6b), the second menu configured to be presented to the user for a repeated occurrences of a second recurring predetermined time period upon expiration of the first predetermined time period (p. 18, l. 28 - p. 19, l. 14: "...the start time of the grid adjusted..."; FIG. 5)
- receiving user input denoting a selection of a selected link representation from the first or second time period (p. 13, l. 1 - p. 14, l. 17); and
- activating a service that corresponds to the selected link representation (p. 13, l. 1 - p. 14, l. 17).

Claim 12 defines features and characteristics as found in claim 1, thus same objections apply mutatis mutandis.

Claims 2 to 7, 9 to 11 and 13 to 15 do not define any additional elements or characteristics which in combination with the features of any claim they depend on would distinguish them from D1 and the common general knowledge in the art on claim date, hence the subject matter of these claims is deemed obvious.

Undue Multiplicity of Claims

Claims 1, 8 and 12 do not comply with subsection 27 (4) of the *Patent Act* which requires the claims to define distinctly the subject matter of the invention and do not comply with section 84 of the *Patent Rules* which requires the claims to be clear and concise. More specifically although claim 8 and 12 have been drafted as separate independent claims, they relate effectively to same subject-matter as claim 1, *i.e.* having a all features in common with claim 1 and differs therefrom only in regard to how the features are phrased in the claims (*i.e.* claim 1: "presenting to the user a first menu on the display..."; "claim 8: "providing for display a first menu..."; claim 12: "...providing for display the first menu...", etc...).

Thus, there is no clear distinction between the scope of claims 1, 8 and 12. These claims contain subject matter which is identical, or so nearly identical, that it essentially results in duplicity which confuses rather than clarifies, thereby failing to comply with subsection 27(4) of the *Patent Act*. Furthermore, the set of claims as a whole is not concise due to the presence of redundant claims, thereby failing to comply with section 84 of the *Patent Rules*.

The unnecessary proliferation of independent claims makes it difficult if not impossible, to determine the matter for which protection is sought, and places an undue burden on others seeking to establish the extent of the protection.

The applicant is advised that objecting as to undue proliferation of claims is current office practice, albeit not reflected in MOPOP as yet.

In view of the foregoing defects, the applicant is requisitioned, under subsection 30(2) of the *Patent Rules*, to amend the application in order to comply with the *Patent Act* and the *Patent Rules* or to provide arguments as to why the application does comply.

Under section 34 of the *Patent Rules*, any amendment made in response to this requisition must be accompanied by a statement explaining the nature thereof, and how it corrects each of the above identified defects.

Reginald Linco
Patent Examiner
819-994-1683

2408289A.rfl.wpd